

HOUSE BILL No. 1126

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-41-4-2; IC 35-42-4-7.

Synopsis: Sexual offenses against a child. Provides that a prosecution for sexual misconduct with a minor, if it is committed by a person who is at least 21 years of age, may be commenced during any period before the alleged victim of the offense becomes 31 years of age. Makes child seduction a Class B felony instead of a Class D felony. Makes a technical correction.

Effective: July 1, 2001.

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January 9, 2001, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1126

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-41-4-2, AS AMENDED BY P.L.9-2000,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 2. (a) Except as otherwise provided in this section,
4 a prosecution for an offense is barred unless it is commenced:

5 (1) within five (5) years after the commission of a Class B, Class
6 C, or Class D felony; or

7 (2) within two (2) years after the commission of a misdemeanor.

8 (b) A prosecution for a Class A felony may be commenced at any
9 time.

10 (c) A prosecution for murder may be commenced:

11 (1) at any time; and

12 (2) regardless of the amount of time that passes between:

13 (A) the date a person allegedly commits the elements of
14 murder; and

15 (B) the date the alleged victim of the murder dies.

16 (d) A prosecution for the following offenses is barred unless
17 commenced before the date that the alleged victim of the offense



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reaches thirty-one (31) years of age:

- (1) IC 35-42-4-3(a) (Child molesting).
- (2) IC 35-42-4-5 (Vicarious sexual gratification).
- (3) IC 35-42-4-6 (Child solicitation).
- (4) IC 35-42-4-7 (Child seduction).
- (5) **IC 35-42-4-9 (Sexual misconduct with a minor), if it is committed by a person who is at least twenty-one (21) years of age on the date the offense is committed.**
- (6) IC 35-46-1-3 (Incest).

(~~e~~) **Notwithstanding subsection (c)(1), a prosecution for child molesting under IC 35-42-4-3(c) or IC 35-42-4-3(d) where a person who is at least sixteen (16) years of age allegedly commits the offense against a child who is not more than two (2) years younger than the older person; is barred unless commenced within five (5) years after the commission of the offense.**

(~~f~~) **(e)** A prosecution for forgery of an instrument for payment of money, or for the uttering of a forged instrument, under IC 35-43-5-2, is barred unless it is commenced within five (5) years after the maturity of the instrument.

(~~g~~) **(f)** If a complaint, indictment, or information is dismissed because of an error, defect, insufficiency, or irregularity, a new prosecution may be commenced within ninety (90) days after the dismissal even if the period of limitation has expired at the time of dismissal, or will expire within ninety (90) days after the dismissal.

(~~h~~) **(g)** The period within which a prosecution must be commenced does not include any period in which:

- (1) the accused person is not usually and publicly resident in Indiana or so conceals himself that process cannot be served on him;
- (2) the accused person conceals evidence of the offense, and evidence sufficient to charge him with that offense is unknown to the prosecuting authority and could not have been discovered by that authority by exercise of due diligence; or
- (3) the accused person is a person elected or appointed to office under statute or constitution, if the offense charged is theft or conversion of public funds or bribery while in public office.

(~~i~~) **(h)** For purposes of tolling the period of limitation only, a prosecution is considered commenced on the earliest of these dates:

- (1) The date of filing of an indictment, information, or complaint before a court having jurisdiction.
- (2) The date of issuance of a valid arrest warrant.
- (3) The date of arrest of the accused person by a law enforcement

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officer without a warrant, if the officer has authority to make the arrest.

(j) (i) A prosecution is considered timely commenced for any offense to which the defendant enters a plea of guilty, notwithstanding that the period of limitation has expired.

SECTION 2. IC 35-42-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) As used in this section, "adoptive parent" has the meaning set forth in IC 31-9-2-6.

(b) As used in this section, "adoptive grandparent" means the parent of an adoptive parent.

(c) As used in this section, "child care worker" means a person who provides care or supervision of a child within the scope of the person's employment in a public or private school or shelter care facility.

(d) As used in this section, "custodian" means any person who resides with a child and is responsible for the child's welfare.

(e) As used in this section, "stepparent" means an individual who is married to a child's custodial or noncustodial parent and is not the child's adoptive parent.

(f) If a person who is:

(1) at least eighteen (18) years of age; and

(2) the:

(A) guardian, adoptive parent, adoptive grandparent, custodian, or stepparent of; or

(B) child care worker for;

a child at least sixteen (16) years of age but less than eighteen (18) years of age;

engages in sexual intercourse or deviate sexual conduct with the child, the person commits child seduction, a ~~Class D~~ **Class B** felony.

SECTION 3. [EFFECTIVE JULY 1, 2001] (a) **IC 35-41-4-2(c)(5), as amended by this act, applies only to offenses for which prosecution is not barred before July 1, 2001, by the statute of limitations under IC 35-41-4-2, as effective before July 1, 2001.**

(b) **The increased penalty imposed by IC 35-42-4-7, as amended by this act, applies only to offenses committed after June 30, 2001. The penalty for offenses committed under IC 35-42-4-7 before July 1, 2001, is the penalty established by IC 35-42-4-7, as effective on the date the offense was committed.**

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